

INITIAL STATEMENT OF REASONS SERVICE OF NOTICE TO REAL ESTATE LICENSEE

Sec. 2909. Service of Notice to Licensee.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

As with any disciplinary proceeding of government, the person subject to discipline must be served with notice of the action against him or her. Traditionally, when seeking to impose license discipline, the Department of Real Estate ("the Department") has served notice via personal service, an action currently undertaken via a private process serving company under contract to the Department. Even under this competitively bid contract, however, each instance of personal service demanded by the Department's enforcement duties exceeds \$90 in cost.

The Administrative Procedure Act, however, includes provision for the manner of service to the respondent to occur "by any means selected by the agency." (Government Code Section 11505(c).) The provision also states that, "Service by registered mail shall be effective if a statute or agency rule requires the respondent to file the respondent's address with the agency and to notify the agency of any change, and if a registered letter containing the accusation and accompanying material is mailed, addressed to the respondent at the latest address on file with the agency." (Id.)

The Department does require a licensee to keep a current mailing address on file with the Commissioner of Real Estate ("the Commissioner"). Section 2715 of the Regulations (Title 10, Chapter 6, California Code of Regulations) ("the Regulations") of the Real Estate Commissioner, in conjunction with Sections 10162 and 10163 of the Business and Professions Code ("the Code"), requires each licensee to maintain a current mailing address on file with the Commissioner of Real Estate.

Each instance of service via registered mail will cost less than \$2, a significant savings to the Real Estate Fund over personal service.

With this proposed regulation, the Department adopts as its standard service of notice, where the person being served is a licensee, service via registered mail to licensee's mailing address on file with the Commissioner. The regulation alerts licensees that their compliance with Section 2715 of the Regulations holds significance beyond the mere fact of the regulation; this mailing address is an active part of their due process right in this licensing scheme.

Purpose: This adoption will specify the form of process for notice to be used for active licensees who are subject to potential discipline under the Real Estate Law and Regulations, achieving a substantial cost savings for the Real Estate Fund.

Rationale: Licensees are required to have a mailing address on file with the Commissioner. Registered mailing is an accepted, and less expensive, form of service of notice. By specifying in regulation that registered mail is the Department's form for service of notice to active licensees, the licensee population is reminded of the importance of maintaining a mailing address on file with the Commissioner, and the Department will achieve substantial cost savings.

SPECIFIC PURPOSE OF THE REGULATION

This adoption will standardize the service of notice to licensees, and achieve a substantial cost savings.

NECESSITY

This regulation is necessary to standardize and alert the licensee population to the standardization of service of notice in disciplinary cases.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Commissioner finds that no alternatives he has considered would be more effective in carrying out the purpose of the proposed regulation change or would be as effective and less burdensome to affected private persons than the proposed regulation change.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Commissioner has determined that there is no adverse economic impact on business imposed by this proposed adoption.